

STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE: Janet Hinton Ohlinger, et al)
Dist. 2, Map 32J, Group C, Control Map 32J,) Wilson County
Parcel 27.00, S.I. 000)
Residential Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$300,000	\$83,100	\$383,100	\$95,775

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on August 1, 2005.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on April 5, 2006, at the Wilson County Property Assessor's Office. Present at the hearing were Jay Catignani, Agent for the taxpayer and Cindy Brown, Wilson County Property Assessor's Office; Derrick Hammond, Appraisal Specialist, Division of Assessments for the State of Tennessee; Jimmy Locke, Wilson County Property Assessor; and Jeff White, also of the Wilson County Property Assessor's Office.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence¹ located at 784 Gay Winds Drive in Mt. Juliet, Tennessee.

The taxpayer's representative, Mr. Jay Catignani, contends that the property is worth \$260,000 based upon his analysis using the direct sales comparison approach. Collective exhibit # 1, Mr. Catignani believed the other appraisal analysis techniques would not be applicable in this case. The subject property on Old Hickory Lake is affected by the water. Mr. Catignani states that the value of the property also depends on lake view and ease of use or access, therefore, water depth is also an issue.

Since the value of the property depends so much on the homeowner's ability to use the lake, Mr. Catignani explained that in order for the homeowner to build a boat dock they must obtain a permit from the Corp. of Engineers. This was another factor that was used

¹ This is considered to be a recreational home, not the taxpayer's primary family residence.

in the partial data analysis. Mr. Catignani produced four (4) comparables in support of the taxpayer's contention of value.

The Wilson County Assessor's Office through its various representatives, specifically Mr. Hammond, contends that the property should be valued at \$383,100. Mr. Hammond on behalf of the county in his collective exhibit #5 presented five (5) comparables in support of his contentions of value.² The area or issue used to adjust the sales comparables produced was similar to the issues used by Mr. Catignani, e.g., water frontage and depth.

The primary purpose the property owner would buy lake front property is of course to get the ambiance and utility of the lake.

In balancing the presentations of the respective parties, it becomes quite clear that each side spent a considerable amount of time, energy and resources to produce the exhibits; however, the germane issue is the value of the property as of January 1, 2005.

The basis of valuation as stated in T.C.A. § 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values"

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 81. (11th ed. 1996). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) **the amount and reliability of the data collected in each approach**; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 601-607.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 22. *The Aero structures Corporation*, Davidson County (Tax Year 1997)

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at \$383,100 based upon the based upon the

² Comparable number six was not considered since the sale occurred after January 1, 2005.

presumption of correctness attaching to the decision of the Wilson County Board of Equalization.

Since the taxpayer is appealing from the determination of the Wilson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board*, 620 S.W. 2d 515 (Tenn.App. 1981)

With respect to the issue of market value, the administrative judge finds that Mr. Catignani simply introduced insufficient evidence to overcome the presumption of correctness from the county board and to affirmatively establish a different market value of subject property as of January 1, 2005, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

In analyzing the arguments of the Taxpayer's representative, the administrative judge must also look to the applicable and acceptable standards in the industry when comparing the sales of similar properties as the Taxpayer's representative did here. This is done not only to test the validity of the comparisons but the values attributed to the comparisons as well.

The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.

2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.

3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.

4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then **adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable**. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.

Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values. [Emphasis supplied] Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001). Andrew B. & Majorie S. Kjellin, (Shelby County, 2005).

In this case it is the values attributable to the comparisons between the subject and other properties with the subsequently made adjustments that is the cause for concern here. While the attributable values may well have been based on acceptable standards in the industry, such as Marshall Swift, documentation was lacking. Therefore Mr. Hammonds' analysis "using price per square foot of the sales price" is more appropriate due to the uniqueness³ of the subject. In the opinion of the administrative judge based on the analytical interpretation of the data the Taxpayer did not overcome the burden, the County's presentation support the correctness of the County Boards' values.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$300,000	\$83,100	\$383,100	\$95,775

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

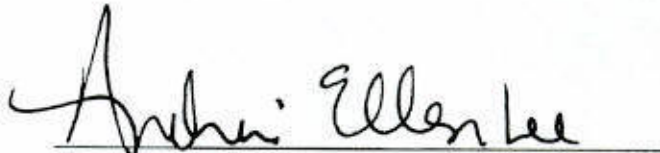
Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

³ "When valuing waterfront properties an appraiser has to be careful to use properties that offer very similar utilities as the subject property." Pg .4, Exhibit #5, County

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 9th day of June, 2006.

A handwritten signature in black ink, reading "Andrei Ellen Lee", written over a horizontal line.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
STATE BOARD OF EQUALIZATION

c: Mr. John F. Ohlinger
Jimmy Locke, Property Assessor